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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,009	12/19/2001	Martin Wiesler	1944	3574

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STRIKER, STRIKER & STENBY
103 East Neck Road
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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,009

Applicant(s)

WIESLER ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.5, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. In the Response dated 5/23/03, Applicant stated that claims 1, 3-5, 9 and 11 are readable on the elected species D of figure 6. At the time, there was not a description of figure 6 in the specification. Applicant supplied the description of figure 6 in the Response dated 8/25/03. Upon consideration of the description, it is determined that claims 1-7 read on the elected species. Claim 9 depends on claim 8; and claim 8 pertains to figure 7. Claim 11 claims a speed nut, which is non-illustrated embodiment, described in page 18 of the specification. Claims 8-15 are withdrawn from further consideration for pertaining to non-elected species.

Drawings

2. Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are replete with errors. For example: in figure 3, "44, 46" are not in the specification; page 13, "23, 10" are not in the drawings; figures 4, 5, no descriptions of "Z" views and numerous reference numbers are being used for the same part or same number being used for numerous parts, etc. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference

sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The amendment filed 8/25/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: lines 8-13 of page 2, "Alternatively to the modular ... a casting with the supporting element 38."

Applicant is required to cancel the new matter in the reply to this Office Action.

5. The specification is replete with errors. For example: page 2, "EP 0759734 A2" should be --EP 0759374 A2--; page 5, line 12 "drilling shaft"; shear force is spelled "sheer force" through out the specification, etc. Furthermore, the Amendment to the specification dated 8/25/03 has "Figure 5" instead of --Figure 6--, and "62" is used for both groove and nut.

6. A substitute specification including the claims is required pursuant to 37 CFR 1.125(a) because of the above listed objections to the specification.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and (c).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 claims "said driven wheel being directly supported against said supporting element by axial force action from outside". It is understood that Applicant intends to claim the driven wheel expanding axially to come into direct contact with the support element when the driven shaft is pulled to the right of figure 3. It is believed that Applicant is claiming the end result and not the structure of the drive unit wherein said structure in the elected embodiment shows a gap between the driven wheel and the supporting element as shown in figure 3. In the non-elected embodiment of figure 7, the driven wheel is directly supported by the support element. In the spirit to expedite prosecution of this application, claim 1 is being examined as: --A transmission-drive unit for a seat adjustment comprising: a transmission housing; a driven shaft extending outwardly beyond said transmission housing; a driven wheel non rotatably arranged on said driven shaft; a supporting element which at least partially surrounds said driven shaft.-- Note that the alternative language of "or a servo steering" is not being considered because it further renders claim 1 indefinite. Note also, that claim 1 as being examined is generic.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter et al. (EP 0759374 A2).

Winter et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 28; a driven shaft 26 extending outwardly beyond said transmission housing; a driven wheel 24 non rotatably arranged on said driven shaft; a support element 52 which at least partially surrounds said driven shaft as shown in figures 1 and 2.

Re: claim 2, Figure 1 shows the supporting element 52 is arranged between said driven wheel 24 and an inner side of said transmission housing.

Re: claim 3, Figure 1 further shows a packing 42 which surrounds said transmission housing 28, said supporting element 52 is arranged between said driven wheel 24 and said packing 42.

Re: claim 7, Winter et al. further shows said supporting element 52 being arranged at a distance from said driven wheel 24 which distance is reduced with growing axial force action as described in page 6, lines 12-30 of the translation.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al.

Winter's drive unit, as rejected in claim 1 above, lacks the supporting element being formed as a part of said housing wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to make the supporting element as a part of the housing wall, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

13. Claims 5 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. in view of the Applicant's submitted prior art, figure 2.

Winter's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. Note that the support element 52 of Winter threadedly and directly engaging the threaded shaft 26 of Winter. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater

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than the inner diameter of the supporting element 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayashi et al., Chaban and Kurashita show various other drive units.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

A handwritten signature in black ink, appearing to read "Lan Nguyen", with a stylized flourish at the end.

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Lan Nguyen

Patent Examiner

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October 31, 2003